

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

\_\_\_\_\_  
MAVIS SHACKLEWOOD,

Plaintiff,

-against-

THE REFUGE TEMPLE OF JESUS CHRIST  
APOSTOLIC, BISHOP DEREK SMITH, SR., and  
DEACON WALLACE,

Defendants.  
\_\_\_\_\_

X

Date Index No. Purchased:

Index No.:

Plaintiff designates Kings  
County as the place of trial.

The basis of venue is  
Defendant's residence.

**SUMMONS**

The Above-Named Defendants:

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
October 29, 2019

Yours, etc.,



By: Adam P. Slater, Esq.  
SLATER SLATER SCHULMAN LLP  
*Counsel for Plaintiff*  
488 Madison Avenue, 20<sup>th</sup> Floor  
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-and-



By: Gary Certain, Esq.  
CERTAIN & ZILBERG, PLLC  
*Counsel for Plaintiff*  
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(212) 687-7800

TO:

THE REFUGE TEMPLE OF JESUS CHRIST APOSTOLIC  
679 Remsen Avenue  
Brooklyn, NY 11236

BISHOP DEREK SMITH, SR.  
The Refuge Temple of Jesus Christ Apostolic  
679 Remsen Avenue  
Brooklyn, NY 11236

DEACON WALLACE  
The Refuge Temple of Jesus Christ Apostolic  
679 Remsen Avenue  
Brooklyn, NY 11236

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS\_\_\_\_\_  
X

MAVIS SHACKLEWOOD,

Date Filed:

Index No.:

Plaintiff,

-against-

**VERIFIED COMPLAINT**THE REFUGE TEMPLE OF JESUS CHRIST  
APOSTOLIC, BISHOP DEREK SMITH, SR., and  
DEACON WALLACE,

Defendant(s).

\_\_\_\_\_  
X

Plaintiff, Mavis Shacklewood (“Plaintiff”), by her attorneys Slater Slater Schulman LLP and Certain & Zilberg, PLLC, brings this action against the Refuge Temple of Jesus Christ Apostolic (“Church”), Bishop Derek Smith, Sr. (“Bishop Smith”), and Deacon Wallace, and alleges on personal knowledge as to herself and on information and belief as to all other matters as follows:

**JURISDICTION AND VENUE**

1. This action is brought pursuant to the Children Victims Act (“CVA”) (L. 2019 c. 11). *See* CPLR § 214-g and 22 NYCRR 202.72.

2. This Court has personal jurisdiction over the Church pursuant to CPLR §§ 301 and 302, in that the Church either resides in New York or conducts or, at relevant times conducted, activities in New York that give rise to the claims asserted herein.

3. This Court has personal jurisdiction over Bishop Smith pursuant to CPLR §§ 301 and 302, in that Bishop Smith either resides in New York or conducts or, at relevant times conducted, activities in New York that give rise to the claims asserted herein.

4. This Court has personal jurisdiction over Deacon Wallace pursuant to CPLR §§ 301 and 302, in that Deacon Wallace either resides in New York or conducts or, at relevant times conducted, activities in New York that give rise to the claims asserted herein.

5. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

6. Venue for this action is proper in the County of Kings pursuant to CPLR § 503 in that one or more of defendants resides in this County, and a substantial part of the events or omissions giving rise to the claims asserted herein occurred here.

### **PARTIES**

7. Whenever reference is made to any defendant entity, such reference includes that entity, its parent companies, subsidiaries, affiliates, predecessors, and successors. In addition, whenever reference is made to any act, deed, or transaction of any entity, the allegation means that the entity engaged in the act, deed, or transaction by or through its officers, directors, agents employees, or representatives while they were actively engaged in the management, direction, control, or transaction of the entity's business affairs.

8. Plaintiff is an individual residing in Kings County, New York. Plaintiff was an infant at the time of the sexual abuse alleged herein.

9. At all times material to the Verified Complaint, the Church was and continues to be a non-profit religious corporation, organized exclusively for charitable, religious, and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

10. At all times material to the Verified Complaint, the Church was and remains authorized to conduct business under the laws of the State of New York.

11. At all times material to the Verified Complaint, the Church's principal place of business is 679 Remsen Avenue, Brooklyn, NY 11236.

12. The Church oversees a variety of liturgical, sacramental, educational and faith formation programs.

13. The Church has various programs that seek out the participation of children in its activities.

14. The Church, through its agents, servants, and/or employees has control over those activities involving children.

15. The Church has the power to employ individuals working with and/or alongside children, providing said children with guidance and/or instruction under the auspices of the Church, including but not limited to those at the Church.

16. At all times material to the Verified Complaint, Bishop Smith was an agent, servant, and/or employee of the Church.

17. At all times material to the Verified Complaint, while an agent, servant and/or employee of the Church, Bishop Smith remained under the control and supervision of the Church.

18. The Church placed Bishop Smith in positions where he had immediate access to children.

19. At all times material to the Verified Complaint, Deacon Wallace was an agent, servant, and/or employee of the Church.

20. At all times material to the Verified Complaint, while an agent, servant and/or employee of the Church, Deacon Wallace remained under the control and supervision of the Church.

21. The Church placed Deacon Wallace in positions where he had immediate access to children.

### **FACTS**

22. Plaintiff was raised in a devoutly religious and, in or around 1980, when Plaintiff was approximately twelve (12) years old, Plaintiff began attending the Church.

23. At all relevant times, Plaintiff participated in youth activities and church activities at the Church.

24. The Plaintiff received educational and religious instruction from the Church.

25. Bishop Smith, under the auspices of the Church, provided educational and religious instruction to the infant Plaintiff.

26. Deacon Wallace, under the auspices of the Church, provided educational and religious instruction to the infant Plaintiff.

27. During and through these activities, Plaintiff, as a minor and vulnerable child, was dependent on the Church and Bishop Smith.

28. During and through these activities, Plaintiff, as a minor and vulnerable child, was dependent on the Church and Deacon Wallace.

29. During and through these activities, the Church had custody of Plaintiff and accepted the entrustment of Plaintiff.

30. During and through these activities, the Church had assumed the responsibility of caring for Plaintiff and had authority over her.

31. During and through these educational and religious instructional activities, Plaintiff, as a minor and vulnerable child, was dependent on the Church and Bishop Smith.

32. During and through these educational and religious instructional activities, Plaintiff, as a minor and vulnerable child, was dependent on the Church and Deacon Wallace.

33. Through Bishop Smith's positions at, within, or for the Church, Bishop Smith was put in direct contact with Plaintiff, a member of the Church. It was under these circumstances that Plaintiff came to be under the direction, contact, and control of Bishop Smith, who used his position of authority and trust over Plaintiff to sexually abuse and harass Plaintiff.

34. Through Deacon Wallace's positions at, within, or for the Church, Deacon Wallace was put in direct contact with Plaintiff, a member of the Church. It was under these circumstances that Plaintiff came to be under the direction, contact, and control of Deacon Wallace, who used his position of authority and trust over Plaintiff to sexually abuse and harass Plaintiff.

35. On repeated occasions, while Plaintiff was a minor, Bishop Smith, while acting as a priest, counselor, teacher, trustee, director, officer, employee, agent, servant and/or volunteer of the Church, sexually assaulted, sexually abused and/or had sexual contact with Plaintiff in violation of the laws of the State of New York, including the New York State Penal Law.

36. On at least one occasion, while Plaintiff was a minor, Deacon Wallace, while acting as a priest, counselor, teacher, trustee, director, officer, employee, agent, servant and/or volunteer of the Church, sexually assaulted, sexually abused and/or had sexual contact with Plaintiff in violation of the laws of the State of New York, including the New York State Penal Law.

37. The abuse occurred from approximately in or about 1980 to 1984.

38. Plaintiff's relationship to the Church, as a vulnerable minor, parishioner and participant in Church educational and religious instructional activities, was one in which Plaintiff was subject to the Church's ongoing influence. The dominating culture of the Church over Plaintiff pressured Plaintiff not to report Bishop Smith's sexual abuse of her.

39. Plaintiff's relationship to the Church, as a vulnerable minor, parishioner and participant in Church educational and religious instructional activities, was one in which Plaintiff was subject to the Church's ongoing influence. The dominating culture of the Church over Plaintiff pressured Plaintiff not to report Deacon Wallace's sexual abuse of her.

40. At no time did the Church ever send an official, a member of the clergy, an investigator or any employee or independent contractor to the Church to advise or provide any form of notice to the parishioners either verbally or in writing that there were credible allegations against Bishop Smith and to request that anyone who saw, suspected or suffered sexual abuse to come forward and file a report with the police department. Rather, the Church remained silent.

41. At no time did the Church ever send an official, a member of the clergy, an investigator or any employee or independent contractor to the Church to advise or provide any form of notice to the parishioners either verbally or in writing that there were credible allegations against Deacon Wallace and to request that anyone who saw, suspected or suffered sexual abuse to come forward and file a report with the police department. Rather, the Church remained silent.

42. At all times material hereto, Bishop Smith was under the direct supervision, employ and/or control of the Church.

43. At all times material hereto, Deacon Wallace was under the direct supervision, employ and/or control of the Church.

44. The Church knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Bishop Smith who sexually abused Plaintiff.



45. The Church knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Deacon Wallace who sexually abused Plaintiff.

46. The Church negligently or recklessly believed that Bishop Smith was fit to work with children and/or that any previous problems he had were fixed and cured; that Bishop Smith would not sexually molest children; and that Bishop Smith would not injure children.

47. The Church negligently or recklessly believed that Deacon Wallace was fit to work with children and/or that any previous problems he had were fixed and cured; that Deacon Wallace would not sexually molest children; and that Deacon Wallace would not injure children.

48. The Church had the responsibility to supervise and/or direct priests serving at the Church, and specifically, had a duty not to aid a pedophile such as Bishop Smith, by assigning, maintaining and/or appointing him to a position with access to minors.

49. The Church had the responsibility to supervise and/or direct priests serving at the Church, and specifically, had a duty not to aid a pedophile such as Deacon Wallace, by assigning, maintaining and/or appointing him to a position with access to minors.

50. By holding Bishop Smith out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, the Church entered into a fiduciary relationship with the minor Plaintiff. As a result of Plaintiff's being a minor, and by the Church undertaking the care and guidance of the vulnerable minor Plaintiff, the Church held a position of empowerment over Plaintiff.

51. By holding Deacon Wallace out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, the Church entered into a fiduciary relationship with the minor Plaintiff. As a result of Plaintiff's being a minor, and by the Church

undertaking the care and guidance of the vulnerable minor Plaintiff, the Church held a position of empowerment over Plaintiff.

52. The Church, by holding itself out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented the then minor Plaintiff from effectively protecting herself. The Church thus entered into a fiduciary relationship with Plaintiff.

53. The Church had a special relationship with Plaintiff.

54. The Church owed Plaintiff a duty of reasonable care because the Church had superior knowledge about the risk that Bishop Smith posed to Plaintiff, the risk of abuse in general in its programs, and/or the risks that its facilities posed to minor children.

55. The Church owed Plaintiff a duty of reasonable care because it solicited youth and parents for participation in its youth programs; encouraged youth and parents to have the youth participate in its programs; undertook custody of minor children, including Plaintiff; promoted its facilities and programs as being safe for children; held its agents including Bishop Smith out as safe to work with children; encouraged parents and children to spend time with its agents; and/or encouraged its agents, including Bishop Smith, to spend time with, interact with, and recruit children.

56. The Church owed Plaintiff a duty of reasonable care because it solicited youth and parents for participation in its youth programs; encouraged youth and parents to have the youth participate in its programs; undertook custody of minor children, including Plaintiff; promoted its facilities and programs as being safe for children; held its agents including Deacon Wallace out as safe to work with children; encouraged parents and children to spend time with its agents; and/or

encouraged its agents, including Bishop Smith, to spend time with, interact with, and recruit children.

57. The Church owed Plaintiff a duty to protect Plaintiff from harm because the Church's actions created a foreseeable risk of harm to Plaintiff.

58. The Church's breach of its duties include, but are not limited to: failure to have sufficient policies and procedures to prevent child sexual abuse, failure to properly implement the policies and procedures to prevent child sexual abuse, failure to take reasonable measures to make sure that the policies and procedures to prevent child sexual abuse were working, failure to adequately inform families and children of the risks of child sexual abuse, failure to investigate risks of child sexual abuse, failure to properly train the workers at institutions and programs within the Church, geographical confines, failure to protect children in its programs from child sexual abuse, failure to adhere to the applicable standard of care for child safety, failure to investigate the amount and type of information necessary to represent the institutions, programs, leaders and people as safe, failure to train its employees properly to identify signs of child molestation by fellow employees, failure by relying on mental health professionals, and/or failure by relying on people who claimed that they could treat child molesters.

59. The Church also breached its duties to Plaintiff by failing to warn Plaintiff and Plaintiff's family of the risk that Bishop Smith posed and the risks of child sexual abuse by clerics.

60. The Church also breached its duties to Plaintiff by failing to warn Plaintiff and Plaintiff's family of the risk that Deacon Wallace posed and the risks of child sexual abuse by clerics.

61. The Church also failed to warn Plaintiff and Plaintiff's family about any of the knowledge that it had about child sexual abuse.

62. The Church also violated a legal duty by failing to report known and/or suspected abuse of children by Bishop Smith and/or its other agents to the police and law enforcement.

63. The Church also violated a legal duty by failing to report known and/or suspected abuse of children by Deacon Wallace and/or its other agents to the police and law enforcement.

64. By employing Bishop Smith at the Church, the Church through its agents, affirmatively represented to minor children and their families that Bishop Smith did not pose a threat to children, did not have a history of molesting children, that the Church did not know that Bishop Smith had a history of molesting children, and that the Church did not know that Bishop Smith was a danger to children.

65. By employing Deacon Wallace at the Church, the Church through its agents, affirmatively represented to minor children and their families that Deacon Wallace did not pose a threat to children, did not have a history of molesting children, that the Church did not know that Deacon Wallace had a history of molesting children, and that the Church did not know that Deacon Wallace was a danger to children.

66. The Church induced Plaintiff and Plaintiff's family to rely on these representations, and they did rely on them.

67. The Church has never publicly admitted the veracity of the allegations against Bishop Smith, warned the public and/or conducted outreach to potential victims of his sexual abuse. The pattern and practice of intentionally failing to disclose the identities and locations of sexually inappropriate and/or abusive clerics has been practiced by the Church for decades and continues through current day. The failure to disclose the identities of allegedly sexually inappropriate and/or abusive clerics is unreasonable and knowingly or recklessly creates or

maintains a condition which endangers the safety or health of a considerable number of members of the public, including Plaintiff.

68. The Church has never publicly admitted the veracity of the allegations against Deacon Wallace, warned the public and/or conducted outreach to potential victims of his sexual abuse. The pattern and practice of intentionally failing to disclose the identities and locations of sexually inappropriate and/or abusive clerics has been practiced by the Church for decades and continues through current day. The failure to disclose the identities of allegedly sexually inappropriate and/or abusive clerics is unreasonable and knowingly or recklessly creates or maintains a condition which endangers the safety or health of a considerable number of members of the public, including Plaintiff.

69. By allowing Bishop Smith to remain in active ministry, the Church, through its agents, has made and continues to make affirmative representations to minor children and their families, including Plaintiff and Plaintiff's family, that Bishop Smith does not pose a threat to children, does not have a history of molesting children, that the Church does not know that Bishop Smith has a history of molesting children and that the Church does not know that Bishop Smith is a danger to children.

70. By allowing Deacon Wallace to remain in active ministry, the Church, through its agents, has made and continues to make affirmative representations to minor children and their families, including Plaintiff and Plaintiff's family, that Deacon Wallace does not pose a threat to children, does not have a history of molesting children, that the Church does not know that Deacon Wallace has a history of molesting children and that the Church does not know that Deacon Wallace is a danger to children.

71. The Church induced Plaintiff and Plaintiff's family to rely on these representations, and they did rely on them.

72. The Church ignored credible complaints about the sexually abusive behaviors of priests.

73. The Church failed to act on obvious warning signs of sexual abuse, including instances where it was aware that priests had children in its private rooms in the rectory overnight, that priests were drinking alcohol with underage children and exposing them to pornography.

74. Even where a priest disclosed sexually abusive behavior with children, Church officials failed to act to remove him from ministry.

75. The Church engaged in conduct that resulted in the prevention, hinderance and delay in the discovery of criminal conduct by priests.

76. The Church conceived and agreed to a plan using deception and intimidation to prevent victims from seeking legal solutions to their problems.

77. As a result of Defendants' conduct described herein, Plaintiff has and will continue to suffer personal physical and psychological injuries, including but not limited to great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, problems sleeping, concentrating, low self-confidence, low self-respect, low self-esteem, feeling of worthlessness, feeling shameful, and embarrassed, feeling alone and isolated, losing faith in God, losing faith in authority figures, feeling estranged from the church, struggling with alcohol and substance problems, struggling with gainful employment and career advancement, feeling helpless, and hopeless, problems with sexual intimacy, relationship problems, trust issues, feeling confused and angry, depression, anxiety, feeling dirty, used, and damaged, suicidal ideations, having traumatic flashbacks, feeling that her childhood and innocence was stolen.

Plaintiff was prevented and will continue to be prevented from performing Plaintiff's normal daily activities; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and, on information and belief, has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of Defendants' misconduct, Plaintiff is unable at this time to fully describe all the details of that abuse and the extent of the harm Plaintiff suffered as a result.

78. The Church violated various New York statutes, including, but not limited to N.Y. Soc. Serv. Law §§ 413 and 420, which require, *inter alia*, school officials, teachers, day care center workers, providers of family or group family day care, and any other child care worker to report suspected cases of child abuse and impose liability for failure to report.

79. The injuries and damages suffered by Plaintiff are specific in kind to Plaintiff, special, peculiar, and above and beyond those injuries and damages suffered by the public.

**FIRST CAUSE OF ACTION: NEGLIGENCE**

80. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

81. The Church knew or was negligent in not knowing that Bishop Smith posed a threat of sexual abuse to children.

82. The Church knew or was negligent in not knowing that Deacon Wallace posed a threat of sexual abuse to children.

83. The acts of Bishop Smith described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his employment, appointment, and/or agency with the Church.

84. The acts of Deacon Wallace described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his employment, appointment, and/or agency with the Church.

85. The Church owed Plaintiff a duty to protect Plaintiff from Bishop Smith's sexual deviancy, both prior to and/or subsequent to Bishop Smith's misconduct.

86. The Church owed Plaintiff a duty to protect Plaintiff from Deacon Wallace's sexual deviancy, both prior to and/or subsequent to Deacon Wallace's misconduct.

87. The Church's willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damages set forth herein at length.

88. At all times material hereto, with regard to the allegations contained herein, Bishop Smith was under the direct supervision, employ and/or control of the Church.

89. At all times material hereto, with regard to the allegations contained herein, Deacon Wallace was under the direct supervision, employ and/or control of the Church.

90. At all times material hereto, the Church's actions were willful, wanton, malicious, reckless, grossly negligent and outrageous in its disregard for the rights and safety of Plaintiff.

91. As a direct and/or indirect result of said conduct, Plaintiff has suffered the injuries and damages described herein.

92. By reason of the foregoing, Defendants jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.



**SECOND CAUSE OF ACTION: NEGLIGENT HIRING, RETENTION, SUPERVISION,  
AND/OR DIRECTION**

93. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

94. The Church hired Bishop Smith.

95. The Church hired Deacon Wallace.

96. The Church hired Bishop Smith for a position that required him to work closely with, mentor, and counsel young boys and girls.

97. The Church hired Deacon Wallace for a position that required him to work closely with, mentor, and counsel young boys and girls.

98. The Church was negligent in hiring Bishop Smith because it knew or should have known, through the exercise of reasonable care, of Bishop Smith's propensity to develop inappropriate relationships with children in its charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

99. The Church was negligent in hiring Deacon Wallace because it knew or should have known, through the exercise of reasonable care, of Deacon Wallace's propensity to develop inappropriate relationships with children in its charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

100. Bishop Smith would not and could not have been in a position to sexually abuse Plaintiff had he not been hired by the Church to mentor and counsel children in the Church.

101. Deacon Wallace would not and could not have been in a position to sexually abuse Plaintiff had he not been hired by the Church to mentor and counsel children in the Church.

102. Bishop Smith continued to molest Plaintiff while at the Church.

103. Deacon Wallace continued to molest Plaintiff while at the Church.

104. The harm complained of herein was foreseeable.

105. Plaintiff would not have suffered the foreseeable harm complained of herein but for the negligence of the Church in having placed Bishop Smith, and/or allowed Bishop Smith to remain in his position.

106. Plaintiff would not have suffered the foreseeable harm complained of herein but for the negligence of the Church in having placed Deacon Wallace, and/or allowed Deacon Wallace to remain in his position.

107. At all times while Bishop Smith was employed or appointed by the Church, he was supervised by the Church and/or its agents and employees.

108. At all times while Deacon Wallace was employed or appointed by the Church, he was supervised by the Church and/or its agents and employees.

109. At all times while Bishop Smith was employed or appointed by the Church, he was under the direction of, and/or answerable to, the Church and/or its agents and employees.

110. At all times while Deacon Wallace was employed or appointed by the Church, he was under the direction of, and/or answerable to, the Church and/or its agents and employees.

111. The Church was negligent in its direction and/or supervision of Bishop Smith in that it knew or should have known, through the exercise of ordinary care, that Bishop Smith's conduct would subject third parties to an unreasonable risk of harm, including Bishop Smith's propensity to develop inappropriate relationships with children under his charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

112. The Church was negligent in its direction and/or supervision of Deacon Wallace in that it knew or should have known, through the exercise of ordinary care, that Deacon Wallace's conduct would subject third parties to an unreasonable risk of harm, including Deacon Wallace's

propensity to develop inappropriate relationships with children under his charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

113. The Church failed to take steps to prevent such conduct from occurring.

114. The Church was negligent in its retention of Bishop Smith in that that it knew, or should have known, through the exercise of reasonable care, of his propensity to develop inappropriate relationships with children under his charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

115. The Church was negligent in its retention of Deacon Wallace in that that it knew, or should have known, through the exercise of reasonable care, of his propensity to develop inappropriate relationships with children under his charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

116. The Church retained Bishop Smith in his position as mentor and counselor to such children and thus left him in a position to continue such behavior.

117. The Church retained Deacon Wallace in his position as mentor and counselor to such children and thus left him in a position to continue such behavior.

118. The Church was further negligent in its retention, supervision, and/or direction of Bishop Smith in that Bishop Smith sexually molested Plaintiff on the premises of the Church.

119. The Church was further negligent in its retention, supervision, and/or direction of Deacon Wallace in that Deacon Wallace sexually molested Plaintiff on the premises of the Church.

120. The Church failed to take reasonable steps to prevent such events from occurring on its premises.

121. Bishop Smith would not and could not have been in a position to sexually abuse Plaintiff had he not been negligently retained, supervised, and/or directed by the Church as a mentor and counselor to the infant parishioners of the Church, including Plaintiff.

122. Deacon Wallace would not and could not have been in a position to sexually abuse Plaintiff had he not been negligently retained, supervised, and/or directed by the Church as a mentor and counselor to the infant parishioners of the Church, including Plaintiff.

123. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

**THIRD CAUSE OF ACTION: BREACH OF FIDUCIARY DUTY**

124. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

125. Through the position to which Bishop Smith was assigned by the Church, Bishop Smith was placed in direct contact with Plaintiff.

126. Through the position to which Deacon Wallace was assigned by the Church, Deacon Wallace was placed in direct contact with Plaintiff.

127. Bishop Smith was assigned as a priest at the Church, including as a teacher assigned to teach Plaintiff.

128. Deacon Wallace was assigned as a priest at the Church, including as a teacher assigned to teach Plaintiff.

129. It was under these circumstances that Plaintiff was entrusted to the care of the Church and - under its authority - came to be under the direction, control and dominance of, Bishop Smith.

130. It was under these circumstances that Plaintiff was entrusted to the care of the Church and - under its authority - came to be under the direction, control and dominance of, Deacon Wallace.

131. As a result, Bishop Smith used his position to sexually abuse and harass Plaintiff.

132. As a result, Deacon Wallace used his position to sexually abuse and harass Plaintiff.

133. There existed a fiduciary relationship of trust, confidence, and reliance between Plaintiff and the Church.

134. Pursuant to its fiduciary relationship, the Church was entrusted with the well-being, care, and safety of Plaintiff.

135. Pursuant to its fiduciary relationship, the Church assumed a duty to act in the best interests of Plaintiff.

136. The Church breached its fiduciary duties to Plaintiff.

137. At all times material hereto, the Church's actions and/or inactions were willful, wanton, malicious, reckless, grossly negligent and/or outrageous in its disregard for the rights and safety of Plaintiff.

138. As a direct result of said conduct, Plaintiff has suffered the injuries and damages described herein.

139. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory and punitive damages, together with interest and costs.

**FOURTH CAUSE OF ACTION: BREACH OF NON-DELEGABLE DUTY**

140. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

141. Plaintiff, when a minor, was placed in the care of the Church for the purposes of, *inter alia*, providing Plaintiff with a safe environment to receive an education.

142. As a result, there existed a non-delegable duty of trust between Plaintiff and the Church.

143. Plaintiff was a vulnerable child when placed within the care of the Church.

144. Consequently, the Church was in the best position to prevent Plaintiff's abuse, and to learn of Bishop Smith's repeated sexual abuse of Plaintiff and stop it.

145. Consequently, the Church was in the best position to prevent Plaintiff's abuse, and to learn of Deacon Wallace's sexual abuse of Plaintiff and stop it.

146. By virtue of the fact that Plaintiff was sexually abused as a minor student entrusted to the care of the Church, the Church breached its non-delegable duty to Plaintiff.

147. At all times material hereto, Bishop Smith was under the direct supervision, employ and/or control of the Church.

148. At all times material hereto, Deacon Wallace was under the direct supervision, employ and/or control of the Church.

149. As a direct result of said conduct, Plaintiff has suffered the injuries and damages described herein.

150. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory and punitive damages, together with interest and costs.

**FIFTH CAUSE OF ACTION: BREACH OF DUTY IN LOCO PARENTIS**

151. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

152. Plaintiff was a minor when her parents entrusted her to the control of the Church for the purpose of, *inter alia*, providing Plaintiff with an education.

153. The Church owed a duty to adequately supervise its students to prevent foreseeable harms and injuries.

154. As a result, the Church owed a duty to Plaintiff *in loco parentis*.

155. The Church breached its duty *in loco parentis*.

156. At all times material hereto, the Church's actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in its disregard for the rights and safety of Plaintiff.

157. As a direct result of the Church's conduct, Plaintiff has suffered the injuries and damages described herein.

158. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory and punitive damages, together with interest and costs.

**SIXTH CAUSE OF ACTION: INTENTIONAL INFLICTION OF  
EMOTIONAL DISTRESS**

159. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

160. At the time Bishop Smith molested Plaintiff, which Bishop Smith knew would cause, or disregarded the substantial probability that it would cause, severe emotional distress, the Church employed Bishop Smith as Plaintiff's mentor and counselor.

161. At the time Deacon Wallace molested Plaintiff, which Deacon Wallace knew would cause, or disregarded the substantial probability that it would cause, severe emotional distress, the Church employed Deacon Wallace as Plaintiff's mentor and counselor.

162. It was part of Bishop Smith's job as role model and mentor to gain Plaintiff's trust. Bishop Smith used his position, and the representations made by the Church about his character that accompanied that position, to gain Plaintiff's trust and confidence and to create opportunities to violate Plaintiff.

163. It was part of Deacon Wallace's job as role model and mentor to gain Plaintiff's trust. Deacon Wallace used his position, and the representations made by the Church about his character that accompanied that position, to gain Plaintiff's trust and confidence and to create opportunities to violate Plaintiff.

164. The Church knew and/or disregarded the substantial probability that Bishop Smith's conduct would cause severe emotional distress to Plaintiff.

165. The Church knew and/or disregarded the substantial probability that Deacon Wallace's conduct would cause severe emotional distress to Plaintiff.

166. Plaintiff suffered severe emotional distress, including psychological and emotional injury as described above.

167. This distress was caused by Bishop Smith's sexual abuse of Plaintiff.

168. The sexual abuse of Plaintiff was extreme and outrageous conduct, beyond all possible bounds of decency, atrocious and intolerable in a civilized community.

169. The Church is liable for Bishop Smith's conduct under the doctrine of *respondeat superior*.

170. The Church is liable for Deacon Wallace's conduct under the doctrine of *respondeat superior*.

171. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory and punitive damages, together with interest and costs.



**SEVENTH CAUSE OF ACTION: NEGLIGENT INFLECTION OF  
EMOTIONAL DISTRESS**

172. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

173. As set forth at length herein, the actions of the Church, its predecessors and/or successors, agents, servants and/or employees, were conducted in a negligent and/or grossly negligent manner.

174. The Church's actions endangered Plaintiff's safety and caused her to fear for her own safety.

175. As a direct and proximate result of the Church's actions, which included but were not limited to, negligent and/or grossly negligent conduct, Plaintiff suffered the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

176. In addition to its own direct liability for negligently inflicting emotional distress on Plaintiff, the Church is also liable for Bishop Smith's negligent infliction of emotional distress under the doctrine of *respondeat superior*.

177. In addition to its own direct liability for negligently inflicting emotional distress on Plaintiff, the Church is also liable for Deacon Wallace's negligent infliction of emotional distress under the doctrine of *respondeat superior*.

178. At the time Bishop Smith breached his duty to Plaintiff, Bishop Smith was employed as Plaintiff's mentor and counselor by the Church.

179. At the time Deacon Wallace breached his duty to Plaintiff, Deacon Wallace was employed as Plaintiff's mentor and counselor by the Church.

180. It was part of Bishop Smith's job as role model and mentor to gain Plaintiff's trust. Bishop Smith used his position, and the representations made by the Church about his character

that accompanied that position, to gain Plaintiff's trust and confidence and to create opportunities to be alone with, and touch, Plaintiff.

181. It was part of Deacon Wallace's job as role model and mentor to gain Plaintiff's trust. Deacon Wallace used his position, and the representations made by the Church about his character that accompanied that position, to gain Plaintiff's trust and confidence and to create opportunities to be alone with, and touch, Plaintiff.

182. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages and punitive damages, together with interest and costs.

**EIGHTH CAUSE OF ACTION: BREACH OF STATUTORY DUTY TO REPORT  
ABUSE UNDER SOC. SERV. LAW §§ 413 and 420**

183. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

184. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420, the Church, including but not limited to its teachers, administrators, and other school personnel, had a statutorily imposed duty to report reasonable suspicion of abuse of children in its care.

185. The Church breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Bishop Smith of children in its care.

186. The Church breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Deacon Wallace of children in its care.

187. As a direct and/or indirect result of said conduct, Plaintiff has suffered injuries and damages described herein.

188. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

**NINTH CAUSE OF ACTION: BATTERY**

189. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

190. By the acts of Bishop Smith described hereinabove, Bishop Smith intentionally and maliciously sexually assaulted, battered, molested, abused, raped and otherwise injured Plaintiff.

191. By the acts of Deacon Wallace described hereinabove, Deacon Wallace intentionally and maliciously sexually assaulted, battered, molested, abused, raped and otherwise injured Plaintiff.

192. The offensive and harmful contact of Bishop Smith as alleged herein was performed by Bishop Smith without the consent of Plaintiff.

193. The offensive and harmful contact of Deacon Wallace as alleged herein was performed by Deacon Wallace without the consent of Plaintiff.

194. At all times material hereto, Bishop Smith acted with reckless disregard for the safety and well being of Plaintiff.

195. At all times material hereto, Deacon Wallace acted with reckless disregard for the safety and well being of Plaintiff.

196. At all times material hereto, Bishop Smith acted willfully, wantonly, maliciously, and recklessly.

197. At all times material hereto, Deacon Wallace acted willfully, wantonly, maliciously, and recklessly.

198. At all times material hereto, Bishop Smith was under the direct supervision, employ and/or control of the Church.

199. At all times material hereto, Deacon Wallace was under the direct supervision, employ and/or control of the Church.

200. As a direct result of said conduct, Plaintiff has suffered the injuries and damages described herein.

201. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory and punitive damages, together with interest and costs.

**TENTH CAUSE OF ACTION: ASSAULT**

202. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

203. At all times material hereto, the acts of Bishop Smith described hereinabove placed Plaintiff in reasonable fear of harmful and injurious contact, including but not limited to further and continued intentional and malicious sexual assault, molestation, battery, abuse, and rape.

204. At all times material hereto, the acts of Deacon Wallace described hereinabove placed Plaintiff in reasonable fear of harmful and injurious contact, including but not limited to further and continued intentional and malicious sexual assault, molestation, battery, abuse, and rape.

205. At all times material hereto, Bishop Smith acted with reckless disregard for the safety and well being of Plaintiff.

206. At all times material hereto, Deacon Wallace acted with reckless disregard for the safety and well being of Plaintiff.

207. At all times material hereto, Bishop Smith acted willfully, wantonly, maliciously, and recklessly.

208. At all times material hereto, Deacon Wallace acted willfully, wantonly, maliciously, and recklessly.

209. At all times material hereto, Bishop Smith was under the direct supervision, employ and/or control of the Church.

210. At all times material hereto, Deacon Wallace was under the direct supervision, employ and/or control of the Church.

211. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory and punitive damages, together with interest and costs.


212. The limitations of liability set forth in Article 16 of the CPLR do not apply to the causes of action alleged herein.

**WHEREFORE**, it is respectfully requested that the Court grant judgment in this action in favor of the Plaintiff, and against the Defendants, in a sum of money in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with all applicable interest, costs, disbursements, as well as punitive damages and such other, further and different relief as the Court in its discretion shall deem to be just, proper and equitable.

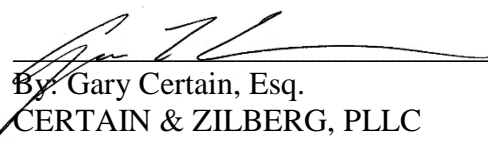
Plaintiff further places Defendants on notice and reserves the right to interpose claims sounding in Fraudulent Concealment, Deceptive Practices and/or Civil Conspiracy should the facts and discovery materials support such claims.

Dated: New York, New York  
October 29, 2019

Yours, etc.,

  
By: Adam P. Slater, Esq.  
SLATER SLATER SCHULMAN LLP  
*Counsel for Plaintiff*  
488 Madison Avenue, 20<sup>th</sup> Floor  
New York, New York 10022  
(212) 922-0906

-and-

  
By: Gary Certain, Esq.  
CERTAIN & ZILBERG, PLLC  
*Counsel for Plaintiff*  
488 Madison Avenue, 20<sup>th</sup> Floor  
New York, New York 10022  
(212) 687-7800

**ATTORNEY VERIFICATION**

Adam P. Slater, an attorney duly admitted to practice law in the Courts of the State of New York, hereby affirms the following statements to be true under the penalties of perjury, pursuant to Rule 2106 of the CPLR:


Your affirmant is a partner of Slater Slater Schulman LLP, attorneys for the Plaintiff in the within action;

That he has read the foregoing Verified Complaint and knows the contents thereof; that the same is true to his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

Affirmant further states that the source of his information and the grounds for his belief are derived from interviews with the Plaintiff and from the file maintained in the normal course of business.

Affirmant further states that the reason this verification is not made by the Plaintiff is that the Plaintiff is not presently within the County of New York, which is the county wherein the attorneys for the Plaintiff herein maintain their offices.

Dated: New York, New York  
October 29, 2019

  
Adam P. Slater, Esq.

SUPREME COURT OF THE STATE NEW YORK  
COUNTY OF KINGS

-----X

MAVIS SHACKLEWOOD,

Index No.:

Plaintiff,

- against -

THE REFUGE TEMPLE OF JESUS CHRIST  
APOSTOLIC, BISHOP DEREK SMITH, SR.,  
And DEACON WALLACE,

Defendants.

-----X

## **SUMMONS & VERIFIED COMPLAINT**

Slater Slater Schulman LLP  
*Attorneys For Plaintiff*  
488 Madison Avenue, 20<sup>th</sup> Floor  
New York, New York 10022

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(212)922-0906

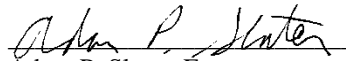
Certain & Zilberg, PLLC  
*Attorneys For Plaintiff*  
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New York, New York 10022

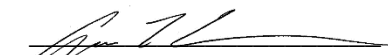
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(212)687-7800

### **CERTIFICATION**

Pursuant to 22 NYCRR §130-1.1-a, the undersigned, an attorney duly admitted to practice in the courts of the State of New York, certifies that, upon information and belief, and reasonable inquiry, the contentions contained in the annexed document are not frivolous as defined in subsection (c) of the aforesaid section.

  
Adam P. Slater, Esq.

  
Gary Certain, Esq.